

Senate File 80 - Introduced

SENATE FILE _____
BY JOHNSON

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act modifying wind energy production tax credit certification
2 procedures and eligibility requirements, providing refund of
3 the sales and use taxes, providing refund of sales and use
4 taxes, and including effective and retroactive applicability
5 date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1466XS 83
8 rn/mg:sc/8

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1 1 Section 1. Section 476B.1, subsection 4, paragraph d, Code
1 2 2009, is amended to read as follows:
1 3 d. For applications filed on or after March 1, ~~2008~~ 2009,
1 4 consists of one or more wind turbines connected to a common
1 5 gathering line which have a combined nameplate capacity of no
1 6 less than two megawatts ~~and no more than thirty megawatts~~.
1 7 Sec. 2. Section 476B.4, Code 2009, is amended to read as
1 8 follows:
1 9 476B.4 ~~LIMITATIONS~~ LIMITATION.
1 10 1. ~~The wind energy production tax credit shall not be~~
~~1 11 allowed for any kilowatt-hour of electricity produced on wind~~
~~1 12 energy conversion property for which the owner has claimed or~~
~~1 13 otherwise received for that property the benefit of special~~
~~1 14 valuation under section 427B.26 or section 441.21, subsection~~
~~1 15 8, or the exemption from retail sales tax under section~~
~~1 16 422.45, subsection 48, Code Supplement 2003, or section 423.3,~~
~~1 17 subsection 54, as applicable.~~
1 18 2. The wind energy production tax credit shall not be
1 19 allowed for any kilowatt-hour of electricity that is sold to a
1 20 related person. For purpose of this subsection, persons shall
1 21 be treated as related to each other if such persons would be
1 22 treated as a single employer under the regulations prescribed
1 23 under section 52(b) of the Internal Revenue Code. In the case
1 24 of a corporation that is a member of an affiliated group of
1 25 corporations filing a consolidated return, such corporation
1 26 shall be treated as selling electricity to an unrelated person
1 27 if such electricity is sold to such a person by another member
1 28 of such group.
1 29 Sec. 3. Section 476B.6, subsection 1, Code 2009, is
1 30 amended to read as follows:
1 31 1. a. ~~To be eligible to receive the wind energy~~
~~1 32 production tax credit, the owner must first receive approval~~
~~1 33 of the board of supervisors of the county in which the~~
~~1 34 qualified facility is located. The application for approval~~
~~1 35 may be submitted prior to commencement of the construction of~~
2 1 the qualified facility but shall be submitted no later than
2 2 the close of the owner's first taxable year for which the
2 3 credit is to be applied for. The application must contain the
2 4 owner's name and address, the address of the qualified
2 5 facility, and the dates of the owner's first and last taxable
2 6 years for which the credit will be applied for. Within
2 7 forty-five days of the receipt of the application for
2 8 approval, the board of supervisors shall either approve or
2 9 disapprove the application. After the forty-five-day limit,
2 10 the application is deemed to be approved.
2 11 b. Upon approval of the application, the owner may apply
2 12 for the tax credit as provided in subsection 2. In addition,
2 13 approval of the application is acceptance by the applicant for
2 14 the assessment of the qualified facility for property tax
2 15 purposes for a period of twelve years and approval by the

~~2 16 board of supervisors for the payment of the property taxes~~
~~2 17 levied on the qualified property to the state. For purposes~~
~~2 18 of property taxation, An owner may apply for special valuation~~
~~2 19 of the qualified facility under a city ordinance or county~~
~~2 20 ordinance enacted under section 427B.26 for which the property~~
~~2 21 is eligible. If the qualified facility is not eligible for~~
~~2 22 special valuation under a city ordinance or county ordinance,~~
~~2 23 the qualified facility shall be centrally assessed, and the~~
~~2 24 property tax collected shall be remitted to the state for a~~
~~2 25 period of twelve years. A qualified facility shall be exempt~~
~~2 26 from any replacement tax under section 437A.6 for the period~~
~~2 27 during which the facility is subject to property taxation.~~
2 28 The property taxes to be paid to the state are those property
2 29 taxes which make up the consolidated tax levied on the
2 30 qualified facility and which are due and payable in the
2 31 twelve-year period beginning with the first fiscal year
2 32 beginning on or after the end of the owner's first taxable
2 33 year for which the credit is applied for. ~~Upon approval of~~
~~2 34 the application, the~~ The board of supervisors shall notify the
3 35 county treasurer to ~~state designate~~ on the tax statement which
3 1 lists the taxes on the qualified facility ~~that~~ the amount of
3 2 the property taxes ~~shall to~~ be paid to the department, ~~if~~
3 3 ~~applicable~~. Payment of the designated property taxes to the
3 4 department shall be in the same manner as required for the
3 5 payment of regular property taxes and failure to pay
3 6 designated property taxes to the department shall be treated
3 7 the same as failure to pay property taxes to the county
3 8 treasurer.

3 9 c. ~~Once the owner of the qualified facility receives~~
~~3 10 approval under paragraph "a", subsequent approval under~~
~~3 11 paragraph "a" is not required for the same qualified facility~~
~~3 12 for subsequent taxable years.~~

3 13 Sec. 4. REFUNDS. Refunds of taxes, interest, or penalties
3 14 which may arise from claims resulting from the amendment of
3 15 section 476B.4 in this Act, for the exemption of sales of wind
3 16 energy conversion property as provided in section 423.3,
3 17 subsection 54, occurring between January 1, 2008, and the
3 18 effective date of this Act, shall be limited to twenty-five
3 19 thousand dollars in the aggregate and shall not be allowed
3 20 unless refund claims are filed prior to October 1, 2009,
3 21 notwithstanding any other provision of law. If the amount of
3 22 claims totals more than twenty-five thousand dollars in the
3 23 aggregate, the department of revenue shall prorate the
3 24 twenty-five thousand dollars among all claimants in relation
3 25 to the amounts of the claimants' valid claims. Claimants
3 26 shall not be entitled to interest on any refunds.

3 27 Sec. 5. EFFECTIVE AND APPLICABILITY DATES. This Act,
3 28 being deemed of immediate importance, takes effect upon
3 29 enactment and applies retroactively to January 1, 2008, for
3 30 tax years beginning on or after that date.

3 31 EXPLANATION

3 32 This bill modifies eligibility requirements and
3 33 certification procedures applicable to the wind energy
3 34 production tax credit established in Code chapter 476B.

3 35 The bill specifies a maximum nameplate capacity for
4 1 qualifying electrical production facilities of no more than 30
4 2 megawatts. Under current law, no maximum limitation is
4 3 applicable. The bill deletes a provision which had prevented
4 4 eligibility for the wind energy production tax credit for any
4 5 kilowatt-hour of electricity produced on wind energy
4 6 conversion property for which the owner had claimed or
4 7 received specified special property tax valuation or sales tax
4 8 exemptions, thus preserving credit availability for owners
4 9 having received special valuation and claimed the sales tax
4 10 exemptions. Because of the retroactivity of the elimination
4 11 of the restriction of the receipt of the tax credit to those
4 12 who have not received the sales tax exemption, a provision for
4 13 refund of sales tax paid is included in the bill.

4 14 Additionally, the bill modifies tax credit certification
4 15 procedures, removing a requirement that eligibility for the
4 16 wind energy production tax credit required approval of the
4 17 board of supervisors for the county in which a qualified
4 18 facility is located.

4 19 The bill takes effect upon enactment and applies
4 20 retroactively to January 1, 2008, for tax years beginning on
4 21 or after that date.